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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,708	10/30/2003	Cyril Brignone	100203274-1	1932

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EXAMINER	
CHOUDHURY, AZIZUL Q	
ART UNIT	PAPER NUMBER
2145	

NOTIFICATION DATE	DELIVERY MODE
09/18/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/698,708	BRIGNONE ET AL.	
	Examiner	Art Unit	
	AZIZUL CHOUDHURY	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

This office action is in response to the correspondence received on May 27, 2008.

Claim Rejections - 35 USC § 101

Claims 1-9 and 22-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-9 and 22-26 are rejected because the claim language describes a data structure that simply contains data and hence is not functional. A data structure is statutory only when it is functional. For example if the data structure were to increase efficiency, then that data structure would be statutory. MPEP 2106.01 clearly states:

> *Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.*

For these reasons, the claimed data structures of claims 1-9 and 22-26 are not deemed statutory and continue to remain rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Tahtinen et al (US PGPUB No: US 2001/0046228 A1).

1. With regards to claim 1, Tahtinen teaches a data structure disposed in a computer readable memory for providing information corresponding to a geographic location, said data structure comprising: a first data field for identifying said location (equivalent to coordinate information, paragraph 4, Tahtinen); and a second data field associated with said first data field for containing said information, wherein a user can access said information (equivalent to subscriber number, paragraph 4, Tahtinen).

2. With regards to claim 2, Tahtinen teaches the data structure wherein said information is selectively provided to a client device on a network based on context relating to a user of said client device, wherein said context is subject to filtering and wherein said filtering functions to deter locating said user (If no phone number is placed within the data structure, it is inherent that a user will not

obtain the information within the data structure as claimed (paragraph 21, Tahtinen).

3. With regards to claims 3, 11 and 17, Tahtinen teaches the data structure wherein said context changes dynamically in response to a condition relating to the temporal pertinence of said information with respect to said contextual information and wherein the receivability of said data structure to said client device is activated or deactivated in response to said condition (If the user is not logged into the service, the information is not attainable (paragraph 4, Tahtinen)).

4. With regards to claims 4, 12 and 18, Tahtinen teaches the data structure wherein said condition comprises a quality selected from the group consisting essentially of time and a locational aspect of said client device (paragraph 4, Tahtinen).

5. With regards to claims 5, 13 and 19, Tahtinen teaches the data structure wherein said locational aspect comprises a state selected from the group consisting essentially of directional orientation, tilt orientation, residing within a specified area of coverage, motion through said specified area of coverage, and accessibility of said location to a position of said client device (paragraph 12, Tahtinen).

6. With regards to claims 6 and 20, Tahtinen teaches the data structure wherein said condition comprises a sequence of events occurring and wherein said area of coverage changes dynamically in response to said sequence of events (paragraph 12, Tahtinen).

7. With regards to claims 7 and 21, Tahtinen teaches the data structure wherein said context comprises an attribute of said user, said attribute selected from the group consisting essentially of identity, profile, history, a preference, a credential, capability, an interest, and a privacy selection (paragraph 4, Tahtinen).

8. With regards to claim 8, Tahtinen teaches the data structure wherein said client device comprises a portable computing device and wherein said context is stored on said portable computing device (equivalent to mobile phone, paragraph 21, Tahtinen).

9. With regards to claims 9 and 23, Tahtinen teaches the data structure wherein said first data structure comprises a latitude and a longitude wherein said second data field is selected from the group consisting essentially of a uniform resource locator and a telephone number (The data structure can maintain coordinates and URL and telephone numbers (paragraphs 4 and 12, Tahtinen)).

10. With regards to claim 10, Tahtinen teaches a network based system for selectively providing a data structure to a client device, said data structure having a first data field for identifying a location and a second data field associated with said first data field containing information corresponding to said location (paragraph 4, Tahtinen), comprising: a filter coupled to said network for accessing context stored at said client device and on the basis of said context determining that said data structure is pertinent to a user of said client device and wherein said filter functions to deter locating said user (Inherent since data structure is accessible to client within Tahtinen's design (paragraph 4, Tahtinen)); a server coupled to said network for selectively furnishing said data structure to said client device on the basis of said determining (element 8, Figure 1, Tahtinen); and a database coupled to said server for storing a plurality of said data structures and providing said data structure to said server (element 4, Figure 1, Tahtinen).

11. With regards to claim 16, Tahtinen teaches a network based method for selectively providing a data structure, said data structure having a first data field for identifying a location and a second data field associated with said first data field containing information corresponding to said location, to a client device (paragraph 4, Tahtinen), said method comprising: in response to a request from said client device, seeking context that characterizes a user of said client device (paragraph 4, Tahtinen); in response to said seeking, filtering said context to

deter locating said user (paragraph 21, Tahtinen); upon said filtering, determining from said context that said data structure is pertinent to said user, and in response to said determining, sending said data structure to said client device (paragraph 4 and 12, Tahtinen).

12. With regards to claim 22, Tahtinen teaches a data structure disposed in a computer readable memory for providing information corresponding to a geographic location, said data structure comprising: a first data field for identifying said location with respect to a three dimensional reference system, wherein said three dimensional reference system is based selectively on an absolute reference and a relative reference (equivalent to coordinate information, paragraph 4, Tahtinen); and a second data field associated with said first data field for containing said information, wherein a user can access said information (equivalent to subscriber number, paragraph 4, Tahtinen).

13. With regards to claim 24, Tahtinen teaches the data structure wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein said absolute reference comprises a plurality of coordinate systems, and wherein each field of said plurality of fields is defined in a separate coordinate system of said plurality of coordinate systems (paragraphs 4 and 12, Tahtinen).

14. With regards to claim 25, Tahtinen teaches the data structure wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein said relative reference comprises a plurality of coordinate systems, and wherein each field of said plurality of fields is defined in a separate coordinate system of said plurality of coordinate systems (paragraphs 4 and 12, Tahtinen).

15. With regards to claim 26, The data structure wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein each field of said plurality of fields is defined in a separate coordinate system of said plurality of coordinate systems, and wherein a first field of said plurality of fields is defined based on said absolute reference and a second field of said plurality of fields is defined based on said relative reference (paragraphs 4 and 12, Tahtinen).

Response to Arguments

The amendment received on May 27, 2008 has been carefully examined but is not deemed fully persuasive.

The applicant's first argument focuses on the 101 rejection and the term "disposed." The applicant contends that by disposing the claims are intending to provide the functionality of storing. The examiner finds this argument persuasive.

The applicant's second argument involves the 101 rejection concerning the claim medium. In particular, the applicant contends that the claimed memory and data base are of statutory types at least based on Figure 11 and its corresponding discussions within pages 52-54 of the specifications. The evidence provided does not point to the memory and database as being of non-statutory types and hence this argument is also deemed persuasive.

Despite the arguments submitted however, the 101-type rejection continues to stand because the claims are directed towards a non-functional data structure. The applicant contends that the claims teach data manipulation functions and hence serves a function and is statutory. The examiner disagrees. For instance, claim 1 reads "wherein a user can access said information." No actual steps are performed on the data to manipulate the data. In fact, the term "can" merely implies that the data is available; it need not even be accessed by a user. The mere accessibility of data (which is essentially claimed) is not a manipulation of data. As an example, the filtering/parsing of data is a manipulation of data. Therefore, the examiner disagrees with this argument and maintains the 101 rejection.

As per the arguments that the Tahtinen prior art fails to teach a geographic location, the examiner disagrees with this assertion. The applicant contends that the claimed geographic location is directed towards a non-virtual reality environment whereas the prior art relates to a virtual reality location. The examiner disagrees with this assertion. The claims are not directed towards reality or virtual reality; the claims are directed towards a "geographic location." Based on such claim language, the

Tahtinen prior art is applicable because it teaches the data structure containing coordinates which are geographic locations. Therefore, the rejection stands.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AZIZUL CHOUDHURY whose telephone number is (571)272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. C./
Examiner, Art Unit 2145

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2145